IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.21932 of 2007

For Approval and Signature:
HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	**NO**
2	To be referred to the Reporter or not ?	**NO**
3	Whether their Lordships wish to see the fair copy of the judgment ?	**NO**
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	**NO**
5	Whether it is to be circulated to the civil judge ?	**NO**

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THE GUJARAT STATE CO-OP. BANK LTD. - Petitioner(s)
Versus
THE STATE OF GUJARAT & 5 - Respondent(s)

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Appearance :
MR PS CHAMPANERI for Petitioner(s) : 1,
MR MAULIK NANAVATI, AGP for Respondent(s) : 1 - 2.
DS AFF.NOT FILED (N) for Respondent(s) : 3, 6,
MR MK VAKHARIA for Respondent(s) : 4-5,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
Date : 27/11/2007
ORAL JUDGMENT

(1) RULE. The learned advocates for the respective respondents are directed to waive service of rule.

(2) The petition has been preferred challenging communication dated 16.06.2007 (Annexure-G) issued by respondent No.3 to all the liquidators of various Regional Co-operative Oil Seeds Growers Unions. The subject matter of the communication refers to payments to be made to the workers of GROFED. The impugned communication directs all the liquidators, to whom the communication is addressed, to complete the liquidation proceedings within a period of one month, realise the properties / recoveries and assign such realised properties/ recovered sums to the State Oil Seeds Growers Union i.e. Federation and thereafter undertake disbursements to the various claimants of the Regional Co-operative Oil Seeds Growers Unions. The communication commences with reference to the meeting held on 04.04.2007 under the chairmanship of the Minister for Co-operation and also concludes with reference to the directions issued by the Minister for Co-operation.

(3) Learned advocate for the petitioner has assailed the impugned communication in light of the judgment rendered by this Court on 01/02.12.2006 in the case of *Federation of Kheda District Co-operative Credit Society Ltd. & Ors. Vs. State of Gujarat & Ors*., Special Civil Application No.20104 of 2006 and cognate petitions. It was submitted that respondent No.3 authority is not empowered to issue any such direction and hence, the impugned communication should be quashed and set aside.

(4) On behalf of the respondent authorities it was submitted by the learned Assistant Government Pleader that the liquidators of various Regional Co-operative Oil Seeds Growers Unions were only directed to ensure that the resources are pooled in the hands of the Federation so as to ensure equitable and proper distribution to all the claimants. It was, therefore, submitted that the aforesaid

judgment in case of *Kheda District Co-operative Credit Society Ltd*. (supra) would not be applicable to the impugned communication dated 16.06.2007 as no general circular had been issued by the authority. Lastly it was submitted that, in any event, the only direction was to furnish the details of the process of liquidation after completing the same within the stipulated period and no prejudice was shown to have been caused to the petitioner.

(5) Learned Senior Advocate representing respondent Nos.4 and 5, namely, liquidators of two Regional Unions, has supported the petitioner to submit that under provisions of Section 110 of the the Gujarat Co-operative Societies Act, 1961 (the Act) the powers of the liquidator have been defined and such powers cannot be curtailed by the authority.

(6) It is not necessary to deal with the submissions of the parties at length. Suffice

it to state that the issue raised in the petition stands concluded by the aforesaid judgment in the case of *Kheda District Co-operative Credit Society Ltd. (supra*) whereunder the Court has, after examining the scheme of the Act, categorically recorded that the legislature has delineated separate and independent powers of the liquidator vis-a-vis the powers of the Registrar under the Act and it was not open to the Registrar to usurp those powers which are available with the liquidator in light of the statutory provisions. In the circumstances, the impugned communication dated 16.06.2007 (Annexure-G) cannot be permitted to operate to the extent the said communication is contrary to the law laid down by this Court. However, there was a consensus amongst the parties that in so far as the direction to complete the proceedings within a time bound frame is concerned, the said direction can be permitted to operate without any fetters being placed on the powers

of the liquidator.

(7) In the result, in light of the ratio laid down by the judgment of this Court in case of *Kheda District Co-operative Credit Society Ltd.* (supra) the impugned communication dated 16.06.2007 issued by the respondent authority is quashed and set aside, leaving it open to all the liquidators, to whom the said communication is addressed, to take independent decision in accordance with law without being fettered in any manner whatsoever by the said communication, except to the extent of completion of the liquidation proceedings within the time frame stipulated, which shall commence from 1st December, 2007.

(8) The petition is allowed accordingly. Rule made absolute to the aforesaid extent. There shall be no order as to costs.

Sd/-
[D.A. MEHTA, J]

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Bhavesh*